

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

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Com. Pls. Case No. 2023-cp-40-00242

Ct. App. Case No. 2025-002124

Sup. Ct. Case No. 2026-000066

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**RECEIVED**

**Mar 05 2026**

**S.C. SUPREME COURT**

Curtis D. Bale,.....Petitioner,

v.

John A. Dougherty, Wachovia Securities Financial Holdings, LLC, Wells Fargo Clearing Services, LLC, f/ k/ a Wells Fargo Advisors, LLC, Wells Fargo & Company, Wells Fargo Bank, N.A., and LPL Financial, LLC,.....Defendants

of which John A. Dougherty, Wells Fargo Clearing Services, LLC, f/ k/ a Wells Fargo Advisors, LLC, Wells Fargo Bank, N.A., and LPL Financial, LLC are ..... Respondents.

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**RETURN TO PETITION FOR WRIT OF SUPERSEDEAS**

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JOHN A. DOUGHERTY, WELLS FARGO CLEARING SERVICES, LLC, F/ K/ A WELLS FARGO ADVISORS, LLC, WELLS FARGO BANK, N.A.

## **Introduction**

Petitioner Curtis Bale (“Petitioner” or “Bale”) continues his years-long crusade to avoid or delay enforcement of the multiple arbitration agreements he entered with Wells Fargo Clearing Services (“WFCS”) and Wells Fargo Bank, N.A. (“WFB” and together with WFCS, “Respondents”). But this time Petitioner seeks not only to avoid his obligations under the arbitration agreements, he also seeks to nullify a wholly-separate agreement he reached with Respondents during the pendency of this appeal, under which he agreed to “stay the deadline for arbitrator selection until ... thirty (30) days after a ruling on [the] Motion to Dismiss or Stay” Petitioner filed in the FINRA proceedings. *See* Ex. 1 (Notice of Extension for Claimant’s Response). Indeed, having been denied his requested stay in FINRA, Petitioner now seeks relief from his own agreed-to deadline. *See* Petition at 4 (“Because Bale must select arbitrators, and thereby submit to arbitration, by March 19, 2026, there is insufficient time for Bale to move the circuit court to stay its order”). Petitioner should not be allowed to continue his now familiar practice of entering an agreement and then fighting to avoid the very obligations he agreed to perform.

Even if he had not already agreed to proceed with arbitration on the current timeline, Petitioner would still not be entitled to a stay. Case law is clear that an appeal is not rendered moot so long as a favorable decision on the merits can give an appellant effective relief. *See, e.g., Clean Tech Partners, LLC v. Elec. Recyclers Int’l, Inc.*, 627 F. App’x 621, 622 (9th Cir. 2015). Petitioner himself acknowledges that a favorable ruling in this Court would nullify the arbitration proceedings he seeks to avoid. Petition at 6. Submission to FINRA jurisdiction therefore does not render his appeal moot as a matter of law. Finally, courts have “consistently held that the burden of being compelled to arbitrate does not cause irreparable harm to the resisting party except under

extraordinarily rare circumstances.” *Wenchun Zheng v. Gen. Elec. Co.*, 2016 WL 11605145, at \*4 (N.D.N.Y. Nov. 16, 2016). Petitioner identifies no such rare circumstances here. His petition should be denied.

### **Background**

Beginning in 2013, Petitioner opened multiple brokerage accounts with WFCS, each one containing a clear and enforceable agreement to arbitrate any dispute arising between he and WFCS. *See* Ex. 2 (WFCS Arbitration Agreement) at 5 (“It is agreed that all controversies or disputes which may arise between you and [WFCS] ... shall be determined by arbitration conducted before, and only before, an arbitration panel set up by the Financial Industry Regulatory Authority (“FINRA”)”). In addition to those he signed with WFCS, Petitioner also signed multiple arbitration agreements with WFB. *See* Ex. 3 (WFB Arbitration Agreement) at 4 (“If you have a dispute with the Bank ... you and the Bank agree that ... the dispute will be resolved through the arbitration process as set forth in this part”).

Despite signing multiple arbitration agreements with both WFCS and WFB and his lengthy experience with such contracts, Petitioner takes the position that all the arbitration agreements he signed are meaningless. Petitioner filed his complaint in Richland County circuit court on January 17, 2023, and WFCS and WFB moved for the court to enforce the arbitration agreements Petitioner executed with them. The Honorable Jocelyn Newman, an experienced business court judge, granted the motions to compel arbitration, finding that Petitioner had entered into valid arbitration agreements with WFCS and WFB and that his claims against them were subject to those valid agreements. Petitioner filed a motion to reconsider, which WFCS and WFB opposed. Judge Newman denied Petitioner’s motion. Petitioner then tried an interlocutory appeal to the Court of Appeals, which was denied without response from Defendants. Petitioner moved to reinstate the

appeal or for the court to rehear his motion, but the Court of Appeals again denied his motion without requiring a response. Petitioner then filed a petition for writ of certiorari in the South Carolina Supreme Court, which WFCS and WFB opposed.

During the pendency of Petitioner's appeal, WFCS filed a statement of claim in FINRA, seeking a declaration that it has no liability to Petitioner for damages for breach of contract. Petitioner filed a motion to dismiss or stay the claim. Petitioner asked WFCS to agree to stay selection of the arbitration panel while its motion to dismiss was pending. WFCS agreed, on the conditions that the arbitration panel would be selected no later than 30 days after the Director ruled on the motion to dismiss and that the deadline for its response be extended from January 12 to January 20. *See* Ex. 1. Petitioner's motion to stay was denied on February 17, *see* Ex. 4 (FINRA Denial), setting the agreed upon deadline for selection of the arbitration panel at March 19. This petition followed.

### **Argument**

#### **I. Petitioner is bound by his agreement.**

This Court should enforce Petitioner's agreement that the arbitration panel would be selected no later than 30 days after the Director ruled on his motion to dismiss or stay the arbitration. It is black letter law that courts, including South Carolina courts, will enforce agreements freely and voluntarily entered into by litigants or their attorneys. *See, e.g., Sadighi v. Daghighfekr*, 66 F. Supp. 2d 752, 765 (D.S.C. 1999) (Enforcing agreement entered by parties' counsel); *Huskins v. Mungo Homes, LLC*, 444 S.C. 592, 595, 910 S.E.2d 474, 476 (2024) (Courts will enforce agreements according to their terms); *Arnold v. Yarborough*, 281 S.C. 570, 572, 316 S.E.2d 416, 417 (Ct. App. 1984) ("Acts of an attorney are directly attributable to and binding upon the client").

Here, in order to secure WFCS's agreement to stay selection of an arbitration panel while his motion to dismiss or stay remained pending in FINRA, Petitioner agreed that the panel would be selected no later than "thirty (30) days after a ruling on [his] Motion to Dismiss or Stay." See Ex. 1. Having received the benefit of his bargain, Petitioner now asks this Court to relieve him of his obligation. His agreement should be enforced, and his petition for a stay denied.

**II. Even if Petitioner had not agreed to select arbitrators, a stay would not be warranted.**

Even if he hadn't already agreed to proceed with arbitration on the current timeline, his petition would still fail. To begin with, case law is clear that "staying arbitration pending appeal of an order to arbitrate is distinctly disfavored." *Hyster Co.*, 803 F. Supp. at 1375; see also *Common Cause v. Rucho*, 284 F. Supp. 3d 780, 783 (M.D.N.C. 2018) ("[A] stay [pending appeal] is considered extraordinary relief for which the moving party bears a heavy burden."); *PaineWebber Inc. v. Farnam*, 843 F.2d 1050, 1051, 1053 (7th Cir. 1988) (Holding that "stays of arbitration pending appeal are exceptionally hard to get [and] making casual or reflexive requests [for such stays are] presumptively grounds for sanctions" and awarding Claimants "costs and attorneys' fees ... incurred in resisting the motion for a stay pending appeal"); *Classic Components Supply, Inc. v. Mitsubishi Electronics America, Inc.*, 841 F.2d 163 (7th Cir.1988) (Imposing sanctions on an unsupported request for a stay pending appeal.). Petitioner has provided no authority indicating that his case should be an exception to that general rule and has instead reflexively filed one frivolous appeal after another seeking to avoid his obligations to arbitrate. And he has done this despite clear case law holding that interlocutory appeals of orders granting motions to compel arbitration are impermissible under South Carolina law.

But even assuming Petitioner's appellate arguments are not made in bad faith, he is still not entitled to a stay of arbitration. Submission to arbitration would not legally moot Petitioner's

appeal because a favorable decision in this Court would still provide him with the relief he seeks—vacation of the trial court’s order compelling arbitration. Nor, despite his contentions, will Petitioner be irreparably harmed if the Court does not save him from his own agreement that obligates him to select arbitrators and proceed.

**A. Submission to FINRA jurisdiction does not moot Petitioner’s appeal.**

Petitioner is simply wrong that submission to FINA jurisdiction would moot his appeal. An appeal is only moot “if no live case or controversy remains at the time of appeal.” *Clean Tech Partners, LLC v. Elec. Recyclers Int’l, Inc.*, 627 F. App’x 621, 622 (9th Cir. 2015); *see also Haig Berberian, Inc. v. Cannery Warehousemen*, 535 F.2d 496, 498 n. 1 (9th Cir.1976) (holding that an appeal was not moot because the arbitration award would be unenforceable if the court agreed with the appellant that the dispute was not arbitrable); *Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) (“A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court”). “A case or controversy exists on appeal so long as a favorable decision on the merits can give an appellant effective relief.” *Id.*; *see also Rampersad v. Plantation at Bay Creek Homeowners Assn.*, 362 Ga. App. 329, 332 (1), 868 S.E.2d 475 (2022) (where an event that ordinarily would render an appeal moot could be “unwound,” there remained the possibility that the appellants could benefit from a favorable decision on appeal, so the appeal was not moot). And courts routinely hold that a party’s submission to arbitration does not moot an appeal over the arbitrability of a dispute because a favorable ruling would still afford the appellant the relief it seeks—it would stop the arbitration proceeding in its tracks and allow the dispute to proceed in the appellant’s preferred forum. *See, e.g., Clean Tech*, 627 F. App’x 622 (Appeal not moot because “a decision vacating the district court order would give Clean Tech an opportunity to potentially contest the validity of the STA

before a district judge rather than an arbitrator”; *Smith v. Millsap*, 369 Ga. App. 430, 437, 893 S.E.2d 833, 840 (2023) (So long as possibility of overturning arbitration award exists, appeals concerning arbitration proceeding are not rendered moot). Indeed, Petitioner acknowledges that a favorable ruling before this Court would provide him the relief he seeks. *See* Petition at 6 (Arguing that the arbitration proceedings would “be a nullity if Bale prevails on appeal”). Submission to arbitration simply would not moot Petitioner’s appeal as a matter of law.

**B. Petitioner will not be irreparably harmed without a stay.**

Nor will Petitioner be irreparably harmed if selection of the arbitration panel occurs on the timeline Petitioner agreed to. Courts have “consistently held that the burden of being compelled to arbitrate does not cause irreparable harm to the resisting party except under extraordinarily rare circumstances.” *Wenchun Zheng*, 2016 WL 11605145, at \*4. Indeed, “the monetary cost of arbitration certainly does not impose ... legally recognized irreparable harm.” *Woodlawn Cemetery v. Local 365, Cemetery Workers & Greens Attendants Union*, 1990 WL 150472, at \*2 (S.D.N.Y. Oct. 2, 1990). Nor is the pendency of Petitioner’s current appeal a basis for staying arbitration. “Otherwise, a stay would be justified in every single case, because in every case, the possibility of [] reversal exists.” *Alfa Laval U.S. Treasury Inc. v. Nat’l Union Fire Ins. Co. of Pittsburgh, PA*, 857 F. Supp. 2d 404, 419 (S.D.N.Y. 2012). Petitioner points to no other reason for staying this proceeding. He has therefore failed to demonstrate that he will be irreparably harmed should the arbitration proceed.

**C. A stay would substantially injure Respondents.**

On the other hand, granting a stay would substantially injure Respondents because it would rob them of the benefit of the bargain they reached with Petitioner to stay selection of the panel until 30 days after his motion to dismiss or stay was resolved *and* further delay enforcement of their contractual right to a speedy resolution of the dispute through arbitration. As to the agreement

to select the panel by March 19, denial of Petitioner’s request would not only ensure WFCS and WFB would receive the benefit of their bargain, it would also serve the public, which has an interest in seeing valid agreements, like the one here, enforced. *See Sogefi USA, Inc. v. Interplex Sunbelt, Inc.*, 535 F. Supp. 3d 548, 555 (S.D.W. Va. 2021).

As to the arbitration agreements themselves, as Judge Easterbrook once observed, the very point of arbitration is the speedy resolution of disputes, which is impossible when, like here, a party seeks a stay of arbitration while it “litigates to the gills”:

This case is about arbitration, which is supposed to be a speedy and inexpensive alternative to litigation. The securities industry insists that its customers sign arbitration agreements, which the Supreme Court has sustained—in part on the premise that it is desirable to have a cheap, quick method to deal with the disputes (many too small to justify full scale litigation) this industry produces. *Shearson/American Express, Inc. v. McMahon*, 482 U.S. 220, 107 S.Ct. 2332, 96 L.Ed.2d 185 (1987). ... Even after Edward Jacks obtained from state court an order compelling PaineWebber to arbitrate this very dispute, PaineWebber filed this federal suit in an effort to rid itself of the obligation to arbitrate with Jacks (and others similarly situated); when it lost in the district court, it took an appeal and sought a stay. Arbitration is neither quick nor cheap when one party litigates to the gills. This arbitration is not to be quick, no matter what (PaineWebber's defense, after all, is the untimeliness of the customers' demands), and PaineWebber is entitled to seek a judicial resolution of its obligation to arbitrate. But it is not entitled to litigate in two sets of courts and file motions that have no effect other than to saddle its customers with extra costs. Litigants must think twice before filing papers that put their adversaries to expense; they must think three times before filing in arbitration cases; there is no evidence that PaineWebber thought even once before seeking a stay pending appeal.

*PaineWebber*, 843 F.2d at 1052-53 (awarding costs and attorneys’ fees to Claimants incurred in resisting the motion for a stay pending appeal). This case has been pending for three years while Petitioner resists his obligations to arbitrate the dispute. Respondents will continue to suffer harm if a stay is issued.

This Court should deny the Writ.

**Conclusion**

Petitioner provides no meritorious arguments why his Petition for Writ of Supersedeas should be granted, and so it must be denied.

This 5th day of March 2026.

*/s/ Paul D. Harrill*  
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